

STATE OF INDIANA)
) SS:
COUNTY OF MONROE)

IN THE MONROE CIRCUIT COURT

CAUSE NO. 53C4 0802P200238

COOK MEDICAL INCORPORATED)
and COOK INCORPORATED,)

Plaintiffs,)

v.)

ANDREA GRIFFIN, DANIEL ZUBIRIA,)
PATRICK MORRISSEY, MICHAEL S.)
WILKINS, and ENDOLOGIX, INC.,)

Defendants.)

FILED
FEB 14 2008
J. J. JONES
CLERK MONROE CIRCUIT COURT

PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

Pursuant to Rule 65 of the Indiana Rules of Trial Procedure, plaintiffs Cook Medical Incorporated and Cook Incorporated (together, "Cook") request that, upon hearing, the Court issue a preliminary injunction that:

(a) Enjoins each of defendants Andrea Griffin, Daniel Zubiria, Patrick Morrissey, and Michael S. Wilkins (together, "Employee Defendants") for a period of 24 months from the date of termination of his or her employment with Cook (which period shall be extended by any period he or she has been employed with defendant Endologix, Inc.) ("Restricted Period") from directly or indirectly (on his or her own behalf or that of any person or entity) selling or otherwise providing or soliciting the sale or provision of any product (including without limitation the Powerlink stent graft) that competes with Cook's products (including without limitation the Cook Zenith stent graft), or doing any business that competes with Cook's business, to or with any Cook customer or prospective customer as to which, during the 24



months immediately preceding the termination of his or her employment with Cook, such Employee Defendant (i) engaged in any solicitation, sales activity, or other direct contact on behalf of Cook, (ii) performed any duties or services on behalf of Cook, or (iii) received and/or used any of Cook's confidential information.

(b) Enjoins each Employee Defendant for the Restricted Period from directly or indirectly (on his or her own behalf or that of any other person or entity): (i) soliciting, inducing or influencing any customer, prospective customer, investor, supplier, licensor, vendor, dealer or any other person or entity who has an actual or prospective business relationship with Cook to discontinue, reduce, reject or otherwise change such relationship in any manner adverse to the interests of Cook, (ii) soliciting, inducing or influencing any person who is employed by or is otherwise engaged to perform services for Cook to discontinue such employment, engagement or other business relationship with Cook, or (iii) employing or seeking to employ, or causing any other person or entity to employ or seek to employ, any person or entity who is employed by Cook.

(c) Enjoins defendant Endologix, Inc. from employing, engaging or otherwise assisting any Employee Defendant to perform any duties or services that would in any respect violate the terms of the preliminary injunction.

In support of this Motion, Cook states that:

1. This Motion is being filed contemporaneously with the filing of the Verified Complaint for Damages and Injunctive Relief. The Complaint contains the factual allegations and legal theories that serve as the basis for this Motion.

2. In connection with this Motion, Cook is able and willing to provide security as the Court might deem proper.

3. To permit Cook to engage in adequate expedited discovery, Cook requests that this Motion be set for hearing on the week of February 25, 2008.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael C. Terrell", written over a horizontal line.

Michael C. Terrell, # 2124-49

Thomas R. DeVoe, #16688-49

Blake J. Burgan, #18350-49

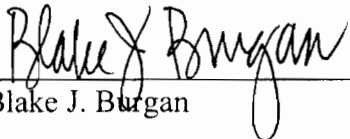
Counsel for plaintiffs Cook Medical Incorporated
and Cook Incorporated

SOMMER BARNARD, PC
One Indiana Square, Suite 3500
Indianapolis, IN 46204
Telephone: (317) 713-3500
Facsimile: (317) 713-3699
E-mail: mterrell@sommerbarnard.com
tdevoe@sommerbarnard.com
bburgan@sommerbarnard.com

CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies that a copy of the foregoing was served via electronic mail and Federal Express Priority Overnight Mail this 6th day of February, 2008, upon:

Robert J. Kane
Stradling Yocca Carlson & Rauth
600 Newport Center Drive, Suite 1600
Newport Beach, CA 92660-6422



Blake J. Burgan

#726795